

CITY OF NEWPORT BEACH
Planning Commission Minutes
 May 5, 2011
 Regular Meeting – 6:30 p.m.

ROLL CALL:		
Commissioners Eaton, Unsworth, Hawkins, McDaniel, Toerge, Ameri, and Hillgren - present		
STAFF PRESENT:		
James Campbell, Acting Planning Director Gregg Ramirez, Senior Planner Michael Torres, Deputy City Attorney Rosalinh Ung, Associate Planner Tony Brine, City Traffic Engineer Gaylene Olson, Department Assistant		
POSTING OF THE AGENDA:		
The Planning Commission Agenda was posted on April 29, 2011.		
PUBLIC COMMENTS:		
Mr. Dan Purcell, resident, presented pictures of the dumpster area shared by Landmark Steakhouse and Rose's Bakery in Corona del Mar, and stated his concerns of two separate waste management providers cleaning this shared dumpster area and surrounding property.		
Commissioner Hawkins stated this is a Code Enforcement issue and asked Mr Purcell to address his complaints to Code Enforcement.		
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REQUEST FOR CONTINUANCES:		
Acting Planning Director James Campbell requested that Item No. 4, Pemstein Residence Minor Use Permit and Variance (PA2010-173), be continued to the June 9, 2011.		
Motion made by Commissioner Toerge and seconded by Commissioner Hillgren to continue Item No. 4 to the June 9, 2011, Planning Commission meeting.		
Motion carries with the following vote:		
Ayes:	Eaton, Unsworth, Hawkins, McDaniel, Ameri, Hillgren and Toerge	
Noes:	None	
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CONSENT ITEMS		
SUBJECT: MINUTES of the regular meeting of April 21, 2011		ITEM NO. 1
Motion made by Commissioner Hawkins and seconded by Commissioner Unsworth to approve the minutes as corrected and amended.		Approved
Motion carried with the following vote:		
Ayes:	Eaton, Unsworth, Hawkins, and McDaniel	
Noes:	Hillgren	
Abstained:	Ameri and Toerge	

<p>SUBJECT: In-Lieu Fee Credit Irvine Company</p> <p>Establishment of In-Lieu Fair Share Fee Credit toward North Newport Center for Construction of a Third Eastbound Left Turn Lane on San Joaquin Hills Road at MacArthur Boulevard.</p> <p>Commissioner Ameri recused himself from any discussion or vote on this item, as the company he works for, RBF, has done minor work on this project.</p> <p>Acting Planning Director James Campbell gave a brief overview of the staff report. Mr Campbell also wanted to add the standard indemnification clause to the resolution and presented a copy of the wording.</p> <p>Commissioner Eaton had sent an email questioning if there was going to be any street widening with this project. Tony Brine, City Traffic Engineer, had responded there would be no street widening related to this project.</p> <p>Commissioner Hillgren asked why this is being presented to the Planning Commission since the in-lieu fair share fees have been established in the Development Agreement and will be decided on what the actual cost are.</p> <p>Deputy City Attorney Michael Torres, responded that within the Development Agreement, Section 4.3 requires staff to come back to the Planning Commission for their approval of the in-lieu application and the Municipal Code requires the Planning Commission to way-in if it is acceptable.</p> <p>Commissioner Unsworth wanted some clarification how the fair share credit is established.</p> <p>City Traffic Engineer Tony Brine provided clarification and indicated that the fair share fee, which is in the process of being updated, includes the entire cost of the improvements at the intersection, and pointed out there are additional improvements other than this left turn lane.</p> <p>Commissioner Hawkins asked if the fair share fees are increased, would that increase the in-lieu credit.</p> <p>Mr. Brine stated that the Development Agreement was base on the existing fair share fee and that the final figures will be based on whatever the fair share fees are at that time.</p> <p>Chairperson McDaniel and Commissioner Toerge had questions regarding the line-item worksheet and related construction costs.</p> <p>Mr. Brine pointed out that this was a generic worksheet and the items on the worksheet that showed a quantity were the only items related to the estimated costs.</p> <p>Dan Miller, representing the Irvine Company, reaffirmed that if the fees go up or down, the actual final cost of the project is credited against the fee that they pay. These fees are the City estimated Fair Share Fees. The work will be out for bid, and he expects the company can complete the work at a less expensive cost then if it were a City project.</p> <p>Commissioner Hillgren asked if there was any incentive to save money on this project, whether it be mutual, or totally benefits the Irvine Company.</p>	<p>ITEM NO. 2</p> <p>Approved</p>
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Mr. Miller responded that he expects that the Irvine Company can complete the project quicker and less expensive than if it were a City project and that would benefit the City.

Commissioner Eaton had a questions regarding the 650 Building that will be built:

- Number of stories it will have.
- General time estimate when it will be completed.
- When will the left turn lane be completed?

Mr. Miller stated the building will be 20 stories high and is under the 295-foot height limit. Permits are expected to be pulled in July or August 2011, and this project should be completed by October 2012.

Commissioner Hawkins asked Mr. Miller to respond to the following regarding paragraph 4.3 of the Development Agreement.

- It requires the Planning Commission to hear this item.
- It stated this project shall be eligible for consideration as an in-lieu contribution under the Fair Share Contribution Ordinance, which would make this a discretionary action.
- The City did not have to approve an in-lieu credit.

Mr. Hawkins pointed out there is a public benefit fee.

Mr. Miller responded the agreement reflects the existing Ordinance, which requires the Planning Commission hear this item. If the City did not approve this project, the Irvine Company would pay the fee, and the City would have to do the work. When permits are pulled for the 650 Building project, the Irvine Company will pay the public benefit fee of \$13,500,000.00 and the City Council will determine the use for those funds.

Public comment period was opened.

No public comments.

Public comment period was closed.

Motion made by Commissioner Hillgren and seconded by Commissioner Unsworth to adopt a resolution approving staff's recommendation of the amount of in-lieu contributions deemed applicable towards Fair Share Fees due to construction of the third eastbound left turn lane on San Joaquin Hills Road at MacArthur Boulevard.

Motion carried with the following vote:

Ayes:	Eaton, Unsworth, Hawkins, McDaniel, Toerge and Hillgren
Noes:	None
Recused:	Ameri

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PUBLIC HEARING ITEMS

SUBJECT: Via Lido Amendments – (PA2011-024)
3363, 3369, & 3377 Via Lido and 3378 Via Oporto

ITEM NO. 3
PA2011-024

The property owner is seeking to continue the existing nonconforming commercial uses of the subject property by requesting the following amendments:

Approved

- 1) General Plan Land Use designation from Multiple-Unit Residential (RM) to Mixed-Use Vertical (MU-V),
- 2) Coastal Land Use Plan designation from Multiple-Unit Residential (RM-D) to Mixed-Use Vertical (MU-V), and
- 3) Zoning designation from Multiple-Unit Residential (RM) to Mixed-Use Vertical (MU-V).

No new land use or development is proposed at this time.

Rosalinh Ung, Associate Planner, gave a brief overview of the staff report with a PowerPoint presentation.

Commissioner Hillgren asked Ms. Ung what the allowed FAR is under the current zoning designation, the new zoning, and the requested application.

Ms. Ung answered under the existing zoning designation, which is Multi-Family Residential, the FAR is 20 units per acre. With that density, the property could be developed up to three residential units and the parking requirement would be seven parking spaces. This is consistent with the General Plan and the existing commercial use is currently non-complaint. The applicant is requesting a mixed-use designation and wants to maintain the existing commercial uses. They would like to have a future opportunity of a MU-V, mixed-use with residential on top of commercial, which would allow a minimum of three residential and a maximum of four residential units. Commercial floor area within a future mixed development would be a minimum of 2800 square feet and a maximum 4000 square feet.

Mr. Hillgren asked if the net request is to add approximately 3000-square-feet of retail and one additional unit.

Ms. Ung answered yes.

Commissioner Hawkins asked what type of approvals would be necessary should the applicant move forward with a future project.

Ms. Ung said the applicant would need to go through the proper application procedure depending on the project they presented. Parking would be the most identifiable restraint on this property and likely require a waiver or off-site parking.

Commissioner Toerge did not believe there was a possible way this project can meet the minimum requirement under the mixed-use designation without offering a parking waiver.

Senior Planner Gregg Ramirez answered the basic thought behind showing a minimum for the mixed-use districts was to get a true mixed-use project in a location; not ending up with a project consisting of 5000-square-feet of commercial and one big residential-unit on top, or a token couple hundred square feet of commercial and four residential-units on top, which truly is not mixed-use. There is the option of commercial only development with no minimum floor area requirement.

Commissioner Eaton asked if there was any off-street parking currently devoted to this property. Did the City require parking when this property was built in the 1970s?

Commissioner Eaton questioned about the property next door, that is also non-complaint, and why it was not included in this proposal.

Ms. Ung stated she did not have any background information regarding the original entitlements granted to this property. Regarding the property next door, there is different owner and they are taking a different path.

Mr. Campbell stated the owner next door is looking to develop a residential project consistent with the General Plan.

Commissioner Unsworth stated it has been a short time since adopting the General Plan and here we are requesting an amendment. He had some concerns and questions:

- Was there a reason for changing this designation to residential in the General Plan, and if that reasoning still holds true today?
- Does the property owner to the south, who is considering residential use, have any concerns with this property being mixed-use?
- A lot work went into the General Plan; the citizens voted on it, we've change the Frog House, now this request. How many more will we get before we need to go back to the vote of the people?
- Is there a commercial development small enough that could go on this site and be able to park on-site, or will there always be a waiver or off-site parking involved?

Mr. Campbell indicated that it was his belief that the reason to change this block to residential was to reduce commercial land and bring more people to the district, in the hopes of revitalizing the area, and bring more economical benefits to the district. Council adopted the ordinance change that amortizes non-residential uses in residential zones and put a short amortization period on these commercial properties. Changing the land use within a year of adoption of the Zoning Code may not be within our best interest. Allowing this project to remain as is and changing the land use to a mixed-use project in the future should not prove to be detrimental to the community, and approval would allow a little more flexibility and a more orderly change to future land use. Mr. Campbell said the neighboring property owner is aware of this application but their view of it is not known. Regarding the parking, Mr. Campbell believes there will be a need for a waiver for any future commercial redevelopment of this site. With a mixed-use project with three units, it would be a tight fit, but each unit could have tandem parking.

Irv Chase, attorney and representative for the applicant, stated they were not here by choice but were here because of the change to the ordinance. The applicant does not want to redevelopment the property, but wants it to remain as commercial and keep their tenants in place with the current uses. In 1964, the previous owner deeded a piece of the property to the City so a street could be put in, and in exchange for that, there was no on-site parking required. There are no plans to redevelop the site, as it would be to cost prohibitive to do so. The reason for asking for the zoning amendment is it that it will give them the most flexibility and it would allow continuation of the current commercial uses.

Commissioner Hawkins stated he sympathized with the applicant, and the City put them in this position by adopting the zoning ordinance for the Group Homes.

Public comment period was opened.

No public comments.		
Public comment period was closed.		
<p>Motion made by Commissioner Hillgren and seconded by Commissioner Unsworth, to adopt a resolution, including the additional language of the indemnification clause, recommending the City Council:</p> <ul style="list-style-type: none"> • Approve General Plan Amendment No. GP2011-003, • Approve Local Coastal Plan Amendment No. LC2011-002, and • Approve Code Amendment No. CA2011-005 <p>Motion carried with the following vote:</p>		
Ayes:	Eaton, Unsworth, Hawkins, McDaniel, Ameri, Toerge and Hillgren	
Noes:	None	
* * *		
<p>SUBJECT: Pemstein Residence Minor Use Permit and Variance (PA2010-173) 2430 Holiday Road</p> <p>Minor use permit to allow senior accessory dwelling (granny) unit and two related variance requests to allow for the construction of 1) a garage addition to encroach 2 feet into the easterly 10-foot side yard setback and 2) an 8-foot-high wall to encroach into the 10-foot easterly side yard setback. The application also includes a request for variance approval to retain nine (9) as-built over-height structures located within required setbacks including: four (4) arbors, three (3) walls, a free-standing fireplace and a storage shed.</p>		<p>ITEM NO. 4 PA2010-173</p> <p>Continued to June 9, 2011</p>
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STAFF AND COMMISSIONER ITEMS		
<p>Chairperson Earl McDaniel recognized that Patricia Temple, former Planning Director, was present. Ms. Temple thanked the Commissioners.</p> <p>Planning Director's report:</p> <ul style="list-style-type: none"> • Malarky's Irish Pub appeal was heard at the April 26, 2011, City Council meeting. In order to allow the applicant time to consider a proposed action and an opportunity to for him to develop an alternative proposal that could potentially address the Council's concern, the City Council continued the public hearing to May 10, 2011. • The Planning Commission meeting of June 9, 2011, may have four lengthy items, and staff suggests an earlier start time. Commission and staff agreed to start at 4 pm, go until 6 pm, stop for a half-hour break, and then resume the meeting at 6:30. Should any of the items be taken off the agenda, it will be decided to reconsider the starting time. 		ITEM NO. 5
Planning Commission reports: No reports		ITEM NO. 6
Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report. - None		ITEM NO. 7
Requests for excused absences – Commissioner Hillgren reminded Commission that he requested to be absent on May 19, 2011 and June 9, 2011 and request was granted at last meeting.		ITEM NO. 8
<p>ADJOURNMENT: 7.50 p.m. MICHAEL TOERGE, SECRETARY CITY OF NEWPORT BEACH PLANNING COMMISSION</p>		